PB-217 658

DIGEST OF MAINE WATER POLLUTION CONTROL LEGISLATION

Public Health Service
Washington, D.C.

September 1958

DISTRIBUTED BY:

NTIS

National Technical Information Service
U. S. DEPARTMENT OF COMMERCE
5285 Port Royal Road, Springfield Va. 22151

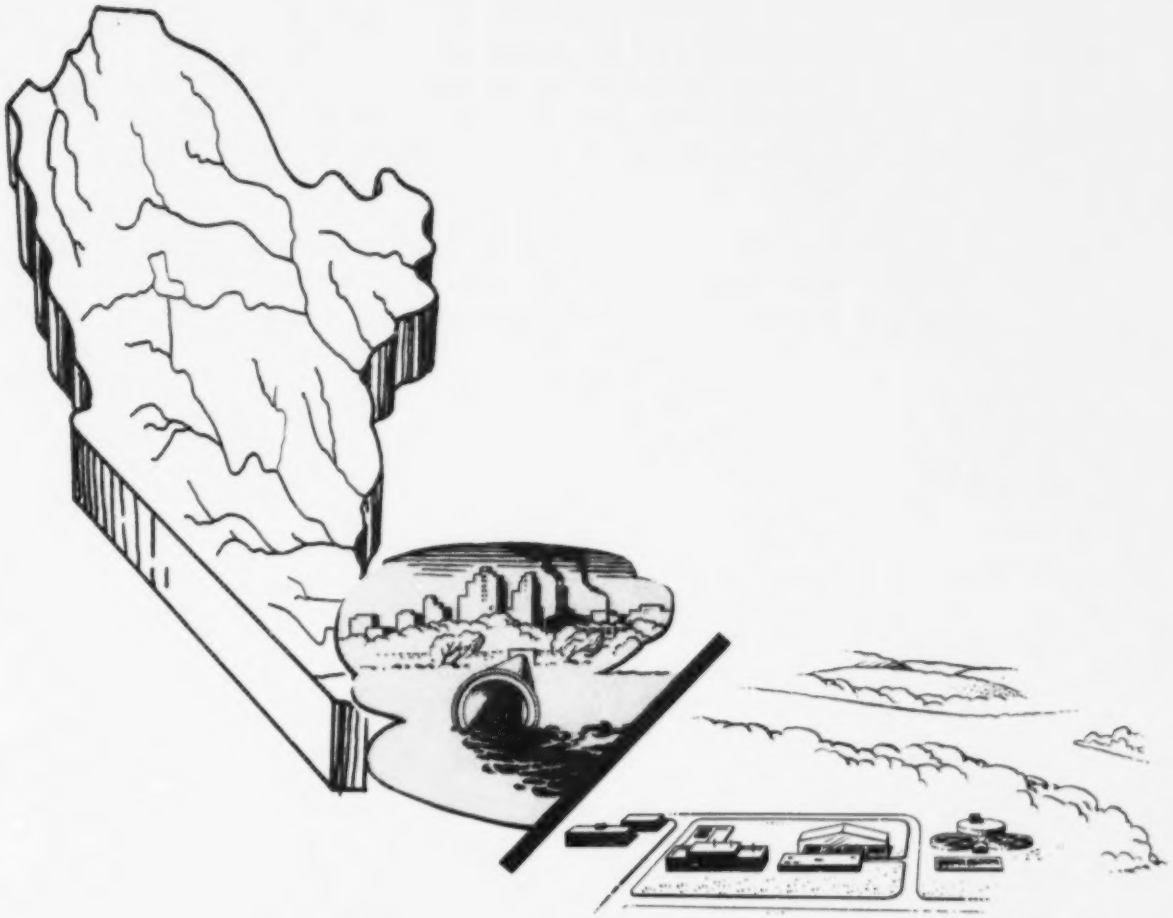
The report outlines the composition, requirements, and duties of the state pollution control board. Provisions are described for the issuance of waste or sewage disposal permits, the review of plans and specifications for facilities, and the establishing of procedures to handle violations. Listed are the authorizations to set rules and regulations in ~~such~~ various areas, as ~~oil well operation, food crop irrigation~~, and the protection of streams and underground waters; to suppress disease and unsanitary practices; and to prevent water supply pollution in general. Authority is given to abate public nuisances by legal proceedings.

fishing, mining,

TD 420
Ref. only
.A5

PB 217 658
LIBRARY
SANITARY ENGINEERING CENTER
CINCINNATI, OHIO

Digest of
WATER POLLUTION CONTROL LEGISLATION
... Maine



Reproduced by
NATIONAL TECHNICAL
INFORMATION SERVICE
U S Department of Commerce
Springfield VA 22151

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

10

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF MAINE WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The Water Improvement Commission has the primary function for controlling water pollution.

The Commission is authorized to classify the surface waters and tidal flats of the State according to four standards, ranging in quality from the highest, Class A, to the progressively lower qualities, Class B, (divided into B-1 and B-2), Class C, and Class D.

Classes of Waters and Uses

Class	Uses
A	Bathing, public water supply after disinfection. Contains not more than 100 coliform bacteria per 100 m.l.
B-1	Bathing, potable water supply after adequate treatment. Contains not more than 300 coliform bacteria per 100 m.l.
B-2	Recreational boating, fishing, industrial, and potable water supply after adequate treatment. Contains not more than 1,000 coliform bacteria per 100 m.l.
C	Recreational boating and fishing. May not be used for water supply or bathing unless treated. Minimum dissolved oxygen content: 5 p.p.m. - trout and salmon waters 4 p.p.m. - others
D	Sewage and industrial waste transportation, but nuisances not permitted (1955 Supp., Ch. 79, sec. 2). 1/

The Commission is also authorized to grant licenses for the discharge of wastes and sewage into the waters of the State (Ch. 79, sec. 8).

The Commission is the State agency for accepting Federal funds in relation to water pollution control and water resources (1955 Supp., Ch. 79, sec. 1-A).

1/ Citations in this digest refer to Revised Statutes of Maine, 1954, and the 1955 Supplement thereto, unless otherwise indicated.

The Department of Health and Welfare and the Public Utilities Commission also have functions relating to water pollution control. These relate primarily to water supply and sewage disposal affecting such supplies (Laws of Maine, 1957, Chs. 269, 295).

The 1957 Legislature has authorized the Water Improvement Commission to pay up to 20 percent of the total cost, or 2/3 of the total Federal contribution under Public Law No. 660, 84th Congress, whichever is less, to the expense of municipal or quasi-municipal waste treatment facilities which have received Federal approval and funds for construction (1957 Cum. Supp., Ch. 79, sec. 7-A).

II. ADMINISTRATIVE ORGANIZATION

Water Improvement Commission

1. Composition and organization

The Commission consists of the Commissioner of Health and Welfare, who serves during his term of office, and 8 members appointed by the Governor, with the advice and consent of the Council, two of which members represent manufacturing interests, two municipalities, two the public generally, and two the conservation interests. The appointive members are appointed for 3-year terms. The Commission holds at least two meetings annually. It organizes in October of each year and elects one of its members as Chairman and also elects a Secretary who need not be a member. Six members constitute a quorum (1955 Supp., Ch. 79, sec. 1).

2. Powers and duties

a) Classification of waters

The Commission is authorized to classify the surface waters and tidal flats of the State according to any one of four standards. Before making any such classification the Commission must call a public hearing and give public notice thereof in a newspaper of State-wide distribution

which notice must appear three times within 30 days preceding the hearing, the last publication to be at least 10 days prior to the hearing. At least two members must attend each such hearing. Within a reasonable time following the hearing the Commission gives public notice of the proposed classification (1955 Supp., Ch. 79, sec. 3).

The Commission submits as legislative proposals to each Legislature its proposed and recommended classification or reclassification of the various specific surface waters and tidal flats concerning which hearings have been held by it (Ibid). The classification does not become effective until it has been adopted by the Legislature (Ch. 79, sec. 4).

b) Issuance of licenses

A license must be obtained from the Commission by anyone who discharges into the waters of the State any waste, refuse or effluent from any manufacturing, processing or industrial plant, or any sewage which will constitute a new source of pollution to such waters (Ch. 79, sec. 8). An application for such license must be filed with the Commission, which holds a hearing thereon within 30 days from the date of the filing of the application. If, after the hearing, the Commission determines that such discharge will not cause or increase the pollution of such waters to such extent as to be inconsistent with the public interest, it issues the license upon payment of $50. Anyone aggrieved by an order of the Commission with respect to any application for a license may, within 30 days after notice of the filing of the order of the Commission, appeal therefrom to any justice of the Superior Court by presenting a copy of such order, certified by the clerk of the Commission, to the clerk of the Court for Kennebec County. At the Court hearing, the applicant or any other interested party may present evidence and the Court may sustain, reverse or modify the order of the

Commission; such decree having the same effect as though rendered in a suit in equity. An appeal may be taken therefrom in the same manner as in appeals in equity procedure and the law court may, after consideration, reverse or modify any decree so made (Ch. 79, secs. 8, 9, 10).

c) Enforcement

No one may deposit in the inland waters or tidal waters of the State, or on the banks thereof so that it may be washed into such waters, any refuse from lumber or other wood products, or deposit any oil, or otherwise pollute such waters. The Commission is empowered to attempt to correct polluted water conditions through negotiation. In the event of failure, it may apply to any Justice of the Supreme or Superior Court in an equity action. The Court on due notice and after hearing may abate the condition and may impose limitations on the nature and extent of deposit in such waters consistent with the public interest. Aggrieved persons may appeal from such order to the law court as in equity (1955 Supp., Ch. 79, sec. 11).

The Attorney General is authorized to file injunction proceedings against anyone violating the provisions of the Act, an order of the Commission, or a decree of the Court (Ch. 79, sec. 12).

It is unlawful for anyone, including Federal agencies, to deposit potatoes or any part thereof, except the potato pulp resulting from the manufacture of potato starch, into any stream or other body of water, or on the ice thereof, or on the banks of the same where it may pollute such waters. Violation carries a fine. This prohibition does not apply to industries licensed under the Act (Ch. 79, sec. 14).

After the adoption of any classification by the Legislature for surface waters or tidal flats, it is unlawful for anyone to dispose of any sewage, industrial or other waste, in such manner as will lower the

quality of such waters, tidal flats or section thereof below the minimum requirements of such classification, and notwithstanding any license which may have been issued. The Commission is authorized to enforce this provision by appropriate orders, which, if not obeyed within the time stipulated by the Commission, may be enforced by appropriate legal action instituted by the Commission. Persons aggrieved by the orders of the Commission may appeal under the same conditions as indicated under II 2b above (Ch. 79, sec. 4). Violations of classification standards or failure or refusal to obey orders of the Commission lawfully issued is punishable by a fine of not less than $25 nor more than $200 for each day of such violation, failure, neglect, or refusal after the expiration of any time limit set by the Commission (Ch. 79, sec. 6).

d) Conduct of studies, investigations, and research

The Commission is authorized to study, investigate, and recommend to persons responsible for depositing into rivers, waters, or coastal flats, municipal sewage, industrial waste, and other substances detrimental to public health or to animal or aquatic life, ways and means of controlling such pollution (1955 Supp., Ch. 79, sec. 1).

e) Cooperation with other public and private agencies

The Commission is authorized, subject to the approval of the Governor and Council, to accept Federal funds available for water pollution control and water resources and meet such requirements with respect to the administration of such funds, not inconsistent with this Act, as are required as conditions precedent to receiving Federal funds (1955 Supp., Ch. 79, sec. 1-A).

The Commission is authorized to cooperate with other departments of this State, any other State, and the Federal Government for the

purpose of carrying out the provisions of the Act relating to rivers and waters which run through the State and any other State (Ch. 79, sec. 7).

The Commission advises and consults with industries and municipalities as to the best methods of disposing of drainage and sewage. It also reviews plans and specifications of municipalities and sewer districts for proposed new systems of drainage, sewage disposal or sewage treatment, except purely storm water systems, and establishes standards for the operation of municipal treatment facilities (1957 Cum. Supp., Ch. 79, sec. 1).

f) Administrative powers

The Commission is authorized to hold hearings, issue orders and licenses, classify waters and make recommendations to the Legislature with respect to the classification of the waters and also with respect to abatement of pollution of the waters of the State for the purpose of raising the classifications thereof to the highest possible classification so far as economically feasible (1955 Supp., Ch. 79, sec. 3; Ch. 79, sec. 9). The Commission is authorized to supply municipalities with forms which must be filed not more than once annually with it showing the present method of sewage collection and disposal in such municipalities (Ch. 79, sec. 5). Any authorized member or employee of the Commission may enter any land or establishment for the purpose of collecting information which may be necessary for the purposes of the Act, and no owner may refuse to admit such member or employee or refuse to furnish needed information concerning pollution of waters by such establishment (1955 Supp., Ch. 79, sec. 5).

3. Exemption from operation of Act

Manufacturing, processing or industrial plants or establishments now or heretofore operated[2/] are not required to file applications for a license for the discharge of wastes at their present general location, such license being granted them under the Act (Ch. 79, sec. 8).

4. Preservation of existing rights and remedies

Nothing contained in the Act affects any litigation pending on January 1, 1945, under any other statute nor in any way impairs any decrees or orders of court heretofore or hereafter entered in any proceedings so pending, nor does the granting of any license or authority under the Act limit the powers of the State to initiate, prosecute and maintain actions to abate public nuisances to the extent consistent with the public interest, nor does any license granted under the Act constitute a defense to any action at law for damages (1955 Supp., Ch. 79, sec. 13).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to use dynamite or any poisonous or stupefying substance for the purpose of destroying or taking any kind of fish in tidal waters Violation carries a fine and imprisonment (Ch. 38, sec. 34).

It is unlawful for anyone to use dynamite or any other explosive, poisonous or stupefying substance at any time for the purpose of taking or destroying any kind of fish. Violation carries a fine or imprisonment (1955 Supp., Ch. 37 sec.52

It is unlawful for anyone to deposit upon the shores, or release and deposit in the bays, harbors, or rivers of the State any dead fish or parts thereof or fish that have been smothered or injured so that they will die. No one is permitted to dump any fish, whether dead, or alive, in the waters of the State after the scales have been intentionally removed from said fish. Violation is punishable by a fine or imprisonment, or both (Ch. 38, sec. 33).

2/ The word "now" in this section means the effective date of any amendment or changes to this section. The currently effective date is 1954. This section was originally passed in 1945. However, when the special legislative session of 1954 accepted the Revised Statutes of 1954 the date of this acceptance became the effective date of the so-called "grandfather clause".

Rendering unwholesome or impure the water of a river, stream, or pond is declared to be a public nuisance (Ch. 141, sec. 6).

Anyone who knowingly and wilfully poisons, defiles, or in any way corrupts waters used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of said sources of supply in such manner as to affect the purity of the water, or knowingly defiles such water in any manner, whether frozen or not, or puts the carcass of any dead animal or other offensive material in or on the ice of said waters, is subject to a fine or imprisonment (Ch. 137, sec. 1).

It is unlawful to bulldoze between the banks of a river, stream, or brook in unorganized territory in excess of 500 feet in length in any one mile, measured along the thread of the stream, without first obtaining permission from the Commissioner of Inland Fisheries and Game. Violation is punishable by a fine (Ch. 37, sec. 22).

It is unlawful to deposit directly into or on the banks of any river, stream, lake or pond or similar watercourse or tidal waters or on the ice thereof any rubbish or garbage. Violation is punishable by a fine (Ch. 141, sec. 11).

The throwing overboard of ballast by a master of a vessel into a port or harbor is prohibited. Violation carries a fine (Ch. 99, sec. 16).

IV. INTERSTATE COMPACTS

The Governor of Maine is authorized to execute a compact on behalf of the State with any one or more of the States of New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island and New York, to be known as the New England Interstate Pollution Control Compact (1955 Supp., Ch. 79-A, secs. 1-7).